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Attorneys for Plaintiff and Real Party in Interest

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

INTERNATIONAL CHURCH

FOURSQUARE GOSPEL,

Plaintiff,

v.

CITY OF SAN LEANDRO, MICHAEL)

J. GREGORY (in his official capacity),)

SURLENE G. GRANT(in her official)

capacity), DIANA M. SOUZA(in her)

official capacity), JOYSE R.)

STAROSCIACK (in her official)

capacity), BILL STEPHES (in his)

) Case No.: CO7-03605-PJH-JCS

) **DECLARATION OF PARKING**
) **DIRECTOR DAVE MORTARA IN**
) **SUPPORT OF MOTION FOR**
) **PRELIMINARY INJUNCTION**

Date: September 5, 2007

Time: 9:00 a.m.

Courtroom: 3

Hon.: Phyllis J. Hamilton

DECLARATION OF DAVE MORTARA

1 official capacity), JIM PROLA (in his)
 2 official capacity), JOHN JERMANIS(in)
 3 his official and individual capacities),)
 4 DEBBIE POLLART (in her official and)
 5 individual capacities), DOES 1-50,)
 6 Defendants.)
 7 FAITH FELLOWSHIP FOURSQUARE)
 8 CHURCH,)
 9 Real Party in Interest.)

10 I, Dave Mortara, do hereby declare as follows:

11 1. That if called upon, I could and would testify truthfully, as to my own
 12 personal knowledge, as follows:

13 2. I am the Parking Director for Faith Fellowship Worship Center
 14 (CHURCH), located at 577 Manor Boulevard, San Leandro, California 94579.

15 3. The City of San Leandro's (CITY) decision to not allow a use permit
 16 for the new facility has severely restricted the free practice of religion at the
 17 CHURCH. Due to the CITY'S denial of the CHURCH's assembly use permit, my
 18 church does not have adequate parking for all attendees. We have been forced to
 19 keep three separate Sunday services. Despite these efforts, we have still not been
 20 able to accommodate those wishing to attend our services.

21 4. Additionally, with three services a parking problem still exists at the
 22 current facility. Without adequate parking people have to park four to five blocks
 23 away and walk at least ten minutes to attend church. Some people turn into the lot,
 24

25 DECLARATION OF DAVE MORTARA

1 see that it is full, cannot find parking close enough on the street, and leave. These
2 people do not get to attend church that day. Others miss church because there is no
3 parking and they cannot walk too far as there is a disability or a small child in the
4 family. Parking problems stop people from attending church or make it difficult to
5 attend church. This alone is a huge burden on Faith Fellowship.
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7 5. Nevertheless, fellowship is stifled when church members cannot attend
8 Sunday service. The parking problem turns into a fellowship problem, which
9 creates a substantial burden on the church's free exercise of religion. When we have
10 more than 450 members at our current facility church members have to begin
11 parking in the residential area. That means that our members cannot all congregate
12 together on Sunday. Our church believes that fellowship is an important aspect of
13 the free practice of religion. The CITY's decision to not allow use of our new
14 facility, as demonstrated, is a substantial burden on our free practice of religion.
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16 6. Fellowship is not the only problem created by the parking shortage.
17 Safety is another problem that developed because of the parking limitation. Faith
18 Fellowship has numerous visitors. All of these visitors do not know of our parking
19 rules. They park in front of residential homes and, at times, create a huge problem
20 with homes in the immediate area. We get complaints almost every week due to
21 members parking near residential homes. This creates conflict with our neighbors.
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1 7. Additionally, the street in front of the CHURCH is one lane. As people
2 try to drive into church the street backs up to the freeway off-ramp. Too much
3 traffic on an off-ramp or in a residential area can be a safety hazard. There was one
4 incident where a lady's vehicle was hit because of heavy traffic on the one way
5 street. This incident happened in front of our current facility on Manor Boulevard.
6

7 8. Finally, when our members have to park off site in the residential area
8 they walk to CHURCH. While walking they encounter a busy street with no
9 crosswalk. Our members are forced to cross the street in danger of being hit by a
10 vehicle. In fact, last year an attendee of Faith Fellowship was hit while crossing the
11 street to attend CHURCH. Safety problems take our attention away from worship,
12 prayer, and other important religious activities. Due to the more than 400 spaces
13 available at the Catalina Property, as well as, the sparse traffic on Sundays in the
14 light industrial area, these problems would be eliminated.
15

16 9. In addition to fellowship and safety, the parking space restriction is a
17 substantial drain on the CHURCH's time. Faith Fellowship has to maintain the
18 parking lot with a crew of parking monitor volunteers. They have to be there during
19 all three services. If there were more parking spaces the CHURCH could use these
20 volunteers for other more religious based activities. Additionally, having three
21 services because of the parking limitation creates a time restriction on the CHURCH
22 as a whole. Having three services, instead of one or two, makes the CHURCH have
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1 to schedule staff and volunteers for a large part of Sunday. If there were only one or
2 two services church staff would be free earlier. More free time will allow the
3 church to pursue further religious activities.
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5 10. As well as a drain on time, the parking shortage takes needed money
6 away from the CHURCH. Faith Fellowship had to hire a parking supervisor to
7 coordinate parking. With the current parking situation the CHURCH's parking
8 supervisor has to work long hours, especially on Sundays. Further, in order to
9 mitigate the damage to the community, as a result of traffic, Faith Fellowship
10 bought a home sitting next to the Church for additional parking. The home cost
11 \$565,000. The CHURCH garnished ten spots at a net cost of \$56,500 dollars per
12 parking spot. These examples speak for themselves.
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15 11. The current facility has 154 parking spaces and some residential
16 parking. This amount of parking is not enough to accommodate our CHURCH.
17 The new property has 188 parking spaces, plenty of on street parking in a
18 commercial area, and additional parking at neighboring businesses (200-300 spaces)
19 via weekend parking agreements. We have negotiated with neighboring businesses
20 to use their parking lots on the weekends when their lots are vacant due to their
21 employees being off of work. The new facility joins a two-way road with turning
22 lanes and will be primarily used on weekends when the commercial area is empty.
23 Being able to use the new property would solve the above problems. Faith
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1 Fellowship could reduce the number of religious services to one or two creating
 2 more opportunities for fellowship. The CHURCH's heavy traffic would be
 3 redirected to an empty commercial area instead of a full residential area. More
 4 members could be at the CHURCH at one time. Members would not be sitting in
 5 stopped traffic on a fast moving freeway. Members would not have to cross a busy
 6 residential street. Allowing the Church's use of the new facility will relieve the
 7 above substantial burdens on Faith Fellowship's free exercise of religion.
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10 12. In my capacity as a member of the CHURCH staff I have attended
 11 meetings at the San Leandro City Hall which is located at 435 East 14th Street in the
 12 City of San Leandro, CA. I am informed and believe, and thereon allege, that the
 13 maximum capacity of the City Council Chambers is 156 persons (126 seating, plus
 14 30 standing) and that there is a sign in the proximity of the exit to that meeting room
 15 which so states.
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18 I declare, under penalty of perjury under the laws of the State of California
 19 and the United States of America, that the foregoing is true and correct and is of my
 20 own personal knowledge, and indicate such below by my signature executed on this
 21 27th day of July, 2007, in the County of Alameda, City of San Leandro.
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23
 24
 25 /S/ Dave Mortara
 26 Dave Mortara, Declarant

27 **Attorney Attestation re Signature**

28
 DECLARATION OF DAVE MORTARA

1
2 I hereby attest that I have on file all holograph signatures for any signatures
3 indicated by a "conformed" signature (/S/) within this efiled document.

4 /S/ Kevin Snider

5 Kevin T. Snider

6 Mathew B. McReynolds

7 Peter D. MacDonald

8 Attorneys for Plaintiff and

9 Real Party in Interest